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January 20, 2006

Mary L. Cottrell, Secretary
Department of Telecommunications and Energy
One South Station
Boston, MA 02110

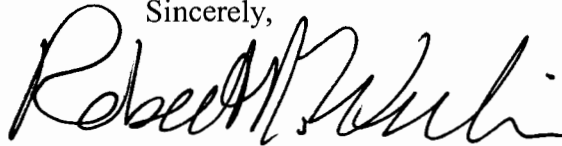
Re: D.T.E. 05-85, NSTAR Electric/NSTAR Gas

Dear Secretary Cottrell:

Enclosed for filing in the above-referenced matter is the Opposition of Boston Edison Company, Cambridge Electric Light Company, Commonwealth Electric Company and NSTAR Gas Company to Dominion Retail, Inc. and Direct Energy Services, LLC Motion to Extend Appeal Period in the above-referenced matter. Also enclosed is a certificate of service.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert N. Werlin", written in a cursive style.

Robert N. Werlin

Enclosure

cc: Service List

COMMONWEALTH OF MASSACHUSETTS

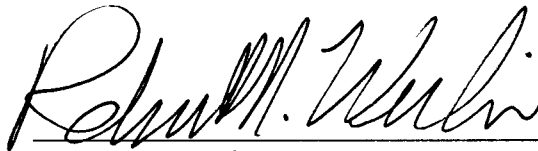
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

Boston Edison Company)
Cambridge Electric Light Company)
Commonwealth Electric Company)
NSTAR Gas Company)

D.T.E. 05-85

CERTIFICATE OF SERVICE

I certify that I have this day served the foregoing document upon the Department of Telecommunications and parties of record in accordance with the requirements of 220 C.M.R. 1.05 (Department's Rules of Practice and Procedures).



Robert N. Werlin, Esq.
Keegan Werlin LLP
265 Franklin Street
Boston, Massachusetts 02110
(617) 951-1400

Dated: January 20, 2006

COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

Boston Edison Company)

Cambridge Electric Light Company)

Commonwealth Electric Company)

NSTAR Gas Company)

D.T.E. 05-85

**OPPOSITION OF BOSTON EDISON COMPANY, CAMBRIDGE ELECTRIC
LIGHT COMPANY, COMMONWEALTH ELECTRIC COMPANY AND NSTAR
GAS COMPANY TO DOMINION RETAIL, INC. AND DIRECT ENERGY
SERVICES, LLC MOTION TO EXTEND APPEAL PERIOD**

I. INTRODUCTION

On December 30, 2005, the Department of Telecommunications and Energy (the “Department”) approved the Settlement Agreement filed by Boston Edison Company (“Boston Edison”), Cambridge Electric Light Company (“Cambridge”), Commonwealth Electric Company (“Commonwealth”) (together, “NSTAR Electric”), NSTAR Gas Company (“NSTAR Gas”, collectively with NSTAR Electric, the “Companies”), the Attorney General of Massachusetts (the “Attorney General”), the Low-Income Energy Affordability Network and Associated Industries of Massachusetts (collectively with the Companies and NSTAR, the “Settling Parties”) with regard to the Companies’ proposed base rate case that was to have been filed pursuant to G.L. c. 164, § 94 and ancillary matters.

On January 18, 2006, Dominion Retail, Inc. and Direct Energy Services, LLC (the “Movants”) filed a motion to extend the appeal period for a “reasonable” period (the “Motion”) in the above-referenced matter. For the reasons set forth below, the Movants

have failed to meet the Department's "good cause" standard for approval of such a motion and, consequently, the Motion must be denied.

II. STANDARD OF REVIEW

The Department's enabling statute requires that any appeal of a Department order or ruling "shall be filed" within 20 days of the decision. G.L. c. 25, § 5. The Department has the jurisdiction to extend that date upon a showing of "good cause" if a request is made before the expiration of the appeal period. *Id.*; 220 CMR 1.11(11).

In reviewing a request for an extension of the statutory appeal period, the Department has consistently applied the following criteria in determining what constitutes "good cause":

Good cause is a relative term and it depends on the circumstances of an individual case. Good cause is determined in the context of any underlying statutory or regulatory requirement, and is based on a balancing of the public interest, the interest of the party seeking an exception, and the interests of any other affected party.

See, e.g., Ruth C. Nunnally d/b/a L&R Enterprises, D.P.U. 92-34-A at 4 (1993) ("Nunnally"); NSTAR, D.T.E. 03-47-C at 10-11 (2004). In that regard, the Department has repeatedly held that enforcement of the 20-day appeal period, itself, serves the public interest:

The twenty-day appeal deadline indicates a clear intention on the part of the legislature and the Department to ensure that the decision of an aggrieved party to appeal a final order of the Department be made expeditiously. Swift judicial review benefits both the appealing party and other parties, and serves the public interest by promoting the finality of Department orders. See Notes, State Administrative Practice: An Illustrative Survey of the Procedure of the Massachusetts Department of Public Utilities, 67 Harv. L. Rev. 845, 858-859 (1954) ("Quick judicial review of agency action is insured by statutory provision that any court proceeding affecting an order of the commission or to which the commission is a party shall have preference over all other civil proceedings."); see also Silvia v. Laurie, 594 F.2d 892, 893 (1st Cir. 1978)

(held that “[w]hile the application of [the time limits of Fed. R. App. P. 4] may lead to apparently harsh results in some cases, it serves important interests of finality”) (citation omitted).

Nunnally at 4-5; see also NYNEX, D.P.U. 94-50-B at 6-7 (1995); The Berkshire Gas Company, D.T.E. 01-56-A at 2 (2002); NSTAR, D.T.E. 03-47-C at 10 (2004).

III. ARGUMENT

The Motion fails to meet the Department’s standards for approval of an extension of the statutory appeal period because the Motion does not establish the presence of “good cause” that could justify the granting of the Motion.¹ Because the Department acknowledges that the legislative structure for appeal of a Department order evinces a clear public interest in swift judicial review and the finality of Department orders (Nunnally at 4-5), the Movants are under a heavy burden to demonstrate a countervailing public interest that would justify delay in the appellate process. The Motion utterly fails to sustain that burden.

The Motion’s request for additional time is based on the claim that the Movants need time “to gain a more complete understanding of the Settlement Agreement and the underlying rate filings before deciding whether an appeal is warranted...” (Motion at 4). The Movants state that there is a “strong likelihood” that the chances for appeal will decrease if the Movants have additional time to understand whether the Settlement Agreement is in the public interest. They also argue that an extension of the appeal period has no impact on the “finality of the judgment[.]” because there would be no stay of the Department’s order approving the Settlement Agreement (id. at 4-5). None of

¹ In fact, the Motion fails to specify the relief requested in that it asks for a “reasonable” extension of the appeal period and does not indicate the time length of time being sought.

these reasons constitute “good cause” or is a countervailing public-interest consideration that would justify a delay in the statutory appeal deadline.

Regarding the argument that the Movants need more time to understand the Settlement Agreement, even assuming arguendo that six weeks is insufficient time to understand the Settlement Agreement and supporting documentation, the Movants have made no showing that more time could possibly have an impact on their consideration as to whether to file an appeal. In fact, the Settlement Agreement itself is only 24 pages and most of the supporting evidence filed in the case (as acknowledged by the Movants) addresses the calculation of revenue requirement. See Exhibit NSTAR-1. These exhibits fully support the reasonableness of the rate aspects of the Settlement Agreement, but have no impact on any issue of concern to marketers of generation services. The revenue requirement calculation affects the delivery charges that apply to all customers on a competitively neutral basis. Accordingly, this argument is without merit.

The Movants’ second argument, i.e., an extension of the appeal period does not conflict with the “finality” of the case, is also without merit. According to the Movants, the fact that the order is not automatically stayed pending appeal, means that an extension will not affect the finality of the order. This turns the doctrine of finality on its head. As indicated in Nunnally, quoted above, finality is achieved after all appeals are exhausted, which is why the Legislature established strict time frames for appeals and why the Department has determined that expeditious completion of any appellate review is in the public interest. Since the appeal process cannot begin and, thus, be completed until an appeal is filed, extensions of the appeal date are not in the public interest in the absence of strong, countervailing showing of “good cause.” Because the Motion presents no such

countervailing considerations, the public interest in expeditious, final resolution of cases requires rejection of the Motion.

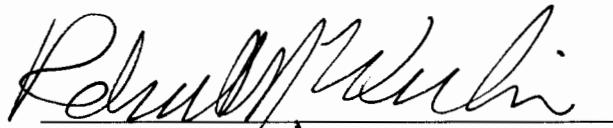
IV. CONCLUSION

For the reasons set forth above, the Motion fails to meet the Department's standard of review for approval of an extension of the appeal process and should be denied.

Respectfully submitted,

**BOSTON EDISON COMPANY
CAMBRIDGE ELECTRIC LIGHT COMPANY
COMMONWEALTH ELECTRIC COMPANY
NSTAR GAS COMPANY**

By Their Attorneys,

A handwritten signature in black ink, appearing to read "Robert J. Keegan", is written over a horizontal line.

Robert J. Keegan
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Date: January 20, 2006